

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal State Joint Board On)	CC Docket No. 96-95
Universal Service)	
_____)	

COMMENTS OF ALLTEL CORPORATION

ALLTEL Corporation, ("ALLTEL") hereby submits its comments to the Commission's Notice of Proposed Rulemaking¹ seeking comment on the earlier released Recommended Decision of the Federal State Joint Board on Universal Service ("Joint Board").²

ALLTEL is a diversified independent telecommunications company whose various subsidiaries and affiliates provide wireline local exchange services, interexchange services, wireless services (PCS, cellular and paging) internet service, digital subscriber line services and other services to customers located predominantly in rural areas within the United States. It is a member of the United States Telecom Association ("USTA"), the Independent Telephone and Telecommunications Alliance ("ITTA"),³ and the Cellular Telecommunications and Internet Association ("CTIA"). ALLTEL provides wireline service to 3.1 million customers in 15 states, primarily in rural territories within the Southeast Region of the United States, and receives universal service funding for its wireline properties operating in high-cost areas. ALLTEL

¹ *Federal State Joint Board on Universal Service*, Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 04-127 (rel. June 8, 2004) ("NPRM")

² *Federal State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, FCC 04J-1 (rel. Feb. 27, 2004) ("Recommended Decision")

³ While a member of both ITTA and USTA, ALLTEL respectfully dissents from the ITTA and USTA position on ETC related matters given the diversity of ALLTEL's interests in these matters before both the Joint Board and the Commission.

provides wireless services to approximately 8.3 million customers located in 24 states, and has sought ETC status for its wireless service offerings both before the Federal Communications Commission ("FCC")⁴ and various state Commissions. ALLTEL's wireless service areas, as licensed by the FCC, encompass a population of approximately 60 million, although the vast majority of its licensed territories serve high-cost areas. The diverse service offerings provided by ALLTEL affords it a balanced, consumer-focused, market-driven perspective on ETC issues, and one devoid of a bias in favor of a particular technology platform or a specific set of services. Given the competitive and financial challenges facing the rural telephone industry as carriers endeavor to serve sparsely populated areas, ALLTEL, as a rural local exchange provider, understands well the often expressed sentiment that ETC status and high cost funding should be the exclusive province of the wireline providers. It simply cannot condone those sentiments, for in ALLTEL's view, the highest goal of the Act's universal service provisions – and particularly in so-called non-rural areas – is the provision of meaningful consumer choice among truly differentiated two-way voice services. Similarly, ALLTEL cannot endorse any recommendation from the Joint Board that singularly disadvantages or burdens wireless carriers as they seek ETC status.

ALLTEL favors universal service reform focused on providing consumer choice among competitive, market driven offerings of reliable, affordable and comparable services on a technology neutral basis. It does not support any requirement that the complement of service offerings required to receive universal service support be determined solely by reference to traditional ILEC services. Rather, ALLTEL advocates policy objectives for universal service

⁴ ALLTEL currently has applications pending before the Commission for ETC status in the states of Alabama and Virginia, North Carolina, Georgia and Florida.

that better comport with a plain reading of Sections 254 and 214 of the Communications Act of 1934, as amended (the "Act").

The major thrust of the Act as it defines universal service is to provide a level of service that is not static, but rather is an "evolving" level of service determined through, among other things, operation of market forces and consumer choice. The Act also specifically contemplates competition among those carriers receiving universal service support through the provision of authority to designate multiple eligible telecommunications carriers ("ETCs"), although a more detailed public interest determination must rightly be made before multiple ETCs are approved in territories served by rural ILECs. The Act is devoid, however, of any preference for a particular technology so as to promote access to advanced telecommunications and information services on a technology-neutral basis.

ALLTEL does not support the imposition of additional service requirements on ETCs, such as equal access, traditional ILEC regulation, or conditions of any variety that result in service offerings to consumers that are narrower, more costly, or otherwise stifle the provision of truly differentiated service offerings by competing carriers. Rather, the approval of multiple ETCs in a territory -- and the resulting competitive environment -- should trigger the elimination of traditional regulation of all carriers in that market area, including the ILEC.

As it noted in its written statement for the record made in response to the meeting of the Joint Board held in Denver, Colorado on July 31, 2003,⁵ ALLTEL supports the following broad principles for universal service reform as consistent with the goal of the Act:

⁵ Public Notice, *Federal-State Joint Board on Universal Service to Hold En Banc Hearing on the Portability of High Cost Universal Service Support and the ETC Designation Process*, DA 03-2294 (released July 11, 2003). ALLTEL submitted its written statement on August 1, 2003 in CC Docket No. 96-45.

1. **Consumer Choice.** Subscribers in high-cost areas should not be deprived of the Act's promise of advanced telecommunications service offerings provided by wireless carriers, including, for example, broader local calling scopes and mobility.
2. **Competition.** The telecommunications market for two-way voice is evolving as a consequence of competition and will continue to produce new and novel service offerings as demanded by subscribers. For example, substitution of wireless for conventional wireline services offerings is occurring at an accelerated rate. Policy should augment, not frustrate, the operation of the competitive market and the exercise of consumer choice that is a foundation of the definition of universal service.
3. **Comparable Services.** ALLTEL believes that USF should be available to competitors offering comparable services, as the Act requires. The determination of comparable services, however, should not be limited to, or constrained by, the conventional service offerings or geographic market boundaries of the ILECs. Provision of comparable service by competing carriers should result in less regulation and more market freedom for all carriers.
4. **Technological Neutrality.** Support for providing service in high cost areas should not favor one technology platform over another.

The Joint Board's recommendations in many instances are fundamentally in opposition to these core principals, and hence the spirit -- if not the plain text -- of the Congress' judgements as to the scope and services to be provided under the universal service policies embodied in the Act. ALLTEL acknowledges the Joint Board's concerns over the size of the fund. ALLTEL, however, does not believe that the ETC process, through which choice is ultimately provided to the consumer, should be either the initial or primary focus of a remedy for the size of the fund while other piece parts of the universal service programs are being further considered. The consideration of the basis for support has been recently referred by the Commission to the Joint Board,⁶ and that other issues related to the scope of contributions and the possible expansion of the base of contributors continue to be the subject of both Commission and legislative consideration. ALLTEL does not prejudge the outcome of any of these proceedings.

⁶ *Federal State Board on Universal Service*, Order, CC Docket No. 96-45, FCC 04-125 (rel. June 28th, 2004)

The Joint Board, in its Recommended Decision, made a number of significant recommendations to the Commission. First, the Joint Board recommended that the Commission adopt permissive federal guidelines for states to consider in proceedings to designate ETC pursuant to Sec. 214 of the Act.⁷ Second, the Joint Board recommended that the Commission limit the scope of high-cost support to a single connection that provides a subscriber access to the public switched network.⁸ Lastly, the Joint Board recommended that the Commission develop a record on issues related to the high-cost support mechanism, including the identification of mobile wireless customer location, and the standards for the submission of accurate, legible and consistent maps. ALLTEL submits its comments on each of these issues.

ALLTEL believes that the ETC process as currently applied in practice by the states and by the Commission in the wake of the recent Virginia Cellular⁹ and Highland Cellular¹⁰ decisions is already rigorous. ALLTEL generally agrees with the Joint Board's conclusion that the ETC process should be flexible and non-binding in order to afford the states the latitude needed to make the determinations that the goals of the Act are being met locally. ALLTEL, however, nonetheless believes that the ETC process must be sufficiently concrete in order to rationalize investment and promote consumer choice. Consequently, and while ALLTEL believes the states should be afforded some degree of latitude (particularly as to the components of the case specific public interest determination exclusively applicable to rural markets) it nonetheless believes that as a matter of delineating any required ETC service commitments, the

⁷ NPRM at para. 2.

⁸ NPRM at paras. 3-4

⁹ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the State of Virginia*, CC Docket No. 96-45, Memorandum, Opinion and Order, FCC 03-338 (rel. Jan. 22, 2004) ("Virginia Cellular")

¹⁰ *Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004) ("Highland Cellular")

FCC's Virginia Cellular and Highland Cellular cases should serve as the ultimate standard and be binding on the states. States should be free to require less exacting standards to the extent market and service conditions in their particular states justify departing from the established Virginia Cellular and Highland Cellular standards. ALLTEL fully agrees with the Joint Board's conclusions that ETC applications in non-rural areas need not meet the same standards as rural areas, given the bifurcated standard contained in Section 214 of the Act.¹¹ A fair reading of the statute within the context of the 96 Act and the use by Congress of the term "shall" evidences the Congressional imperative to inject consumer choice among functionally similar services meeting the basic requirements of Section 214 in non-rural markets. Exclusively non-rural ETC applications should, consequently, be granted expeditiously and as a matter of course.

The Joint Board considered whether previously approved ETCs should be re-certified or ETC status rescinded should new standards for approving ETC be issued by the states or as a consequence of the Commission's decision. Carriers designated as ETCs under the current scheme must fully and continually comply with the dictates of Section 214(e) and such other conditions as may be imposed upon them at the time of designation or risk enforcement or otherwise risk having their certifications rescinded. ALLTEL believes that so long as the ETC meets the requirements in place at the time of certification and has preformed its obligations as an ETC, the carrier should neither be forced to undergo a new certification proceeding or otherwise have its previously granted ETC status questioned. Ultimately, ETC status is about providing service alternatives to consumers, and providing the certainty needed to generate the capital investment required to achieve those goals. Were ETCs to be subject to re-certification based upon continually shifting standards and requirements, the predictability required to support capital investment – as well as the provision of maintenance and support of built out network –

¹¹ Recommended Decision at paras. 48-49.

would ultimately suffer. ALLTEL believes that the regulatory uncertainty engendered in any recertification process is an anathema to the prospect of choice in rural markets for it provides a disincentive to investment.

The Joint Board also considered the need and standards for an annual certification process. ALLTEL takes no issue with the need for regulators to ensure that all USF support goes for its intended purposes and fully supports that underlying policy. ALLTEL does believe that competitive ETCs should not face more rigorous annual certifications than incumbent ILECs. Further, ALLTEL believes that, in keeping with the general theme of competitive neutrality contained in the Act's USF provisions, certification standards must be competitively neutral and not be otherwise biased in favor of one technology or type of carrier.

The recommendations of the Joint Board on the scope of support and whether support should be limited to a single so-called primary line remains the most consequential to the industry and consumers at large.¹² The Joint Board recommended limiting support to a single connection, but expressly conditioned the adoption of its recommendation on the Commission's ability to develop competitively neutral rules and procedures that do not result in undue administrative burdens. ALLTEL views the Joint Board's proposal as fundamentally flawed and inconsistent with the Act which speaks in terms of individual "consumers" and attempts to break the nexus between the one-line/one-household notion of conventional universal service in the strict wireline tradition. Indeed, if the true benefits of alternative services and the distinct choices they offer are to be realized, the focus of the Commission's deliberations must be on the consumer, and not the household. ALLTEL believes that any process through which a primary line is assigned must be based in substantial part on the determination as to which line of use is the primary communication tool utilized by the consumer as that fact might be evidenced by

actual usage data. ALLTEL knows of no mechanism, nor can it fathom any such mechanism that meets both the requirements for factual accuracy, and administrative efficiency.

ALLTEL recognizes that a primary line restriction may have some justification as a pure matter of economic efficiency but only when unrelated to the other countervailing broad public policies embodied in the Act's universal service provisions. The substantial administrative hurdles in implementing these policies – including the affects on local rates, the possibility of "gaming" as to which carrier holds the primary line, as well as the lack of technology neutrality leads ALLTEL to the conclusion that the interests of consumers and even competition are simply better served maintaining the status quo.

The Joint Board requested that the Commission develop a record as to how the primary location of use of mobile phones could be determined in order to prevent any arbitrage opportunities that might occur when a phone is identified, as it currently is, with the customer address, but used for the most part in an entirely different area that may not be a high-cost area.¹³ Ultimately, the mobility feature of wireless phones, as well as the wide array of service offerings afforded consumers by wireless carriers render this issue irreconcilable. Currently, the use of the billing address for calculation of support is the only administratively reasonable and efficient methodology available to determine wireless customer locations. To the best of ALLTEL's knowledge, there is no evidence to date that readily quantifies the degree of any alleged arbitrage, or otherwise documents an improper use of the current methodology by a carrier to generate additional support to which they would otherwise be undeserving.

In conclusion, ALLTEL acknowledges the difficulties and complexities of the issues confronting both the Joint Board and the Commission as they attempt to control the size of the

¹² Recommended Decision at para. 87.

¹³ Recommended Decision at para. 129.

fund while continuing to serve the interests of consumers residing in high-cost areas. ALLTEL urges the Commission to focus on the higher aspirations of the Act as opposed to the proprietary claims of one class of carrier as opposed to another and provide consumers with the choice in service they truly desire.

Respectfully submitted,

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